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OFFICE OF PETITIONS

In re Application of
David E. Francischelli, et. al.
Application No. 10/657,987
Filed: September 9, 2003
Attorney Docket No. P-10081.03

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on November 20, 2006, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed on August 11, 2005. A Notice of Abandonment was mailed on February 27, 2006.

Petitioner states that a timely reply was on February 9, 2006, which included the following papers: an amendment and supplemental IDS transmittal, and amendment, petition for a three (3) month extension of time, a supplemental IDS, PTO form 1449, a return postcard receipt, authorization to charge \$1,200 in fees to the deposit account, and authorization to charge any fees or credit to the deposit account. On March 29, 2006 and on November 20, 2006, petitioner submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated February 9, 2006, that renders the reply as timely filed.

A review of the record shows that the USPTO received the original response with \$1,020 for a three months extension of time on February 13, 2006. It is also noted that the originally submitted response and extension of time contained a Certificate of Mailing under 37 CFR 1.8, dated February 9, 2006. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 11, 2005 is hereby withdrawn and the application is restored to pending status.

In view of the above, the \$1,500 petition to revive fee submitted on November 20, 2006, is unnecessary and will be refunded to petitioner's deposit account.

This application is being referred to Technology Center AU 3739, for consideration of the response filed February 13, 2006, as being timely submitted with the three months extension of time.



Andrea Smith
Petitions Examiner
Office of Petitions